



AGENDA
RIO DELL CITY COUNCIL
CLOSED SESSION – 5:30 P.M.
REGULAR MEETING - 6:30 P.M.
TUESDAY, SEPTEMBER 6, 2016
CITY COUNCIL CHAMBERS
675 WILDWOOD AVENUE

***WELCOME . . .** By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the City Council are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City Government welcomes your interest and hopes you will attend and participate in Rio Dell City Council meetings often.*

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (707) 764-3532. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

- A. CALL TO ORDER
- B. ROLL CALL
- C. ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION AS FOLLOWS:
 - 1) 2016/0906.01 - **Conference with Labor Negotiator – City Manager**
Concerning Labor Negotiations with Rio Dell Employees Association, Rio Dell Police Officers Association, and all Contract Employees (Pursuant to Gov't Code §54957.6)
- D. PUBLIC COMMENT REGARDING CLOSED SESSION
- E. RECESS INTO CLOSED SESSION
- F. RECONVENE INTO OPEN SESSION – 6:30 P.M.
- G. ORAL ANNOUNCEMENTS
- H. PLEDGE OF ALLEGIANCE
- I. CEREMONIAL MATTERS

J. PUBLIC PRESENTATIONS

This time is for persons who wish to address the Council on any matter not on this agenda and over which the Council has jurisdiction. As such, a dialogue with the Council or staff is not intended. Items requiring Council action not listed on this agenda may be placed on the next regular agenda for consideration if the Council directs, unless a finding is made by at least 2/3rds of the Council that the item came up after the agenda was posted and is of an urgency nature requiring immediate action. Please limit comments to a maximum of 3 minutes.

K. CONSENT CALENDAR

The Consent Calendar adopting the printed recommended Council action will be enacted with one vote. The Mayor will first ask the staff, the public, and the Council members if there is anyone who wishes to address any matter on the Consent Calendar. The matters removed from the Consent Calendar will be considered individually in the next section, "SPECIAL CALL ITEMS".

- 1) 2016/0906.02 - Approve Minutes of the August 16, 2016 Regular Meeting
(ACTION) 1

L. ITEMS REMOVED FROM THE CONSENT CALENDAR

M. SPECIAL PRESENTATIONS/STUDY SESSIONS

- 1) 2016/0906.03 - Presentation on Measure 'S' Related to Commercial
Marijuana Cultivation Taxes in the Unincorporated Areas
Humboldt County – (CAO Amy Nilsen and Undersheriff
Bill Honsel) 23

N. SPECIAL CALL ITEMS/COMMUNITY AFFAIRS

- 1) 2016/0906.04 - Consider Possible Elimination of Wildwood Ave. Sculpture
Committee **(DISCUSSION/POSSIBLE ACTION)** 33
- 2) 2016/0906.05 - Update on Downtown Parking Lot Improvements
(DISCUSSION/POSSIBLE ACTION) 35

O. ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

- 1) 2016/0906.06 - Introduction and First Reading (by title only) of Ordinance No. 348-2016 Establishing Commercial Medical Cannabis Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC) **(DISCUSSION/POSSIBLE ACTION)** 39
- 2) 2016/0906.07 - Introduction and First Reading (by title only) of Ordinance No. 347-2016 amending Section 17.30.020, Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to establish maximum building heights and floor areas based on the size of the parcel and to allow for exceptions by the Planning Commission when certain findings can be made **(DISCUSSION/POSSIBLE ACTION)** 66
- 3) 2016/0906.08 - Introduction and First Reading (by title only) of Ordinance No. 349-2016 amending Chapter 17.40 of the Rio Dell Municipal Code (RDMC) to accurately reflect referenced sections which were recently amended **(DISCUSSION/POSSIBLE ACTION)** 75

P. REPORTS/STAFF COMMUNICATIONS

Q. COUNCIL REPORTS/COMMUNICATIONS

R. ADJOURNMENT

*The next regular City Council meeting is scheduled for
Tuesday, September 20, 2016 at 6:30 p.m.*

**RIO DELL CITY COUNCIL
REGULAR MEETING
AUGUST 16, 2016
MINUTES**

The closed session/regular meeting of the Rio Dell City Council was called to order at 5:30 pm by Mayor Wilson.

ROLL CALL: Present: Mayor Wilson, Mayor Pro Tem Johnson,
Councilmembers Garnes, Marks, and Thompson

Others Present: City Manager Knopp, Finance Director Woodcox,
Chief of Police Hill, and City Clerk Dunham

Absent: Community Development Director Caldwell,
Water/Roadways Superintendent Jensen, and
Wastewater Superintendent Trainee Yaple
(excused)

**ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION AS
FOLLOWS:**

Conference with Labor Negotiator – City Manager – Concerning Labor
Negotiations with Rio Dell Employees Association, Rio Dell Police Officers
Association, and all Contract Employees

The Council recessed into closed session at 5:30 p.m. with the City Manager to discuss labor negotiations as posted.

The Council reconvened into open session at 6:30 p.m.

Mayor Wilson announced there was no reportable action taken in closed session.

CEREMONIAL

Swearing in of Three (3) Newly Appointed Planning Commissioners, Mike
Strahan, Arnie Kemp and Sandy Blakely

City Clerk Dunham administered the Oath of Allegiance to Planning Commissioners Mike Strahan and Arnie Kemp. Planning Commission Alternate Sandy Blakely was not present.

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Mayor Wilson expressed appreciation for the time and effort put forth to volunteer for a position on the Planning Commission and said the Commission's job, as seen over the last year is a very vital function of the City.

PUBLIC PRESENTATIONS

None

CONSENT CALENDAR

Mayor Wilson removed consent calendar item No. 4 Water Revenue Update for separate discussion.

Motion was made by Johnson/Garnes to approve the consent calendar including approval of minutes of the July 26, 2016 special meeting; approval of minutes of the August 2, 2016 regular meeting; approval of Resolution No. 1307-2016 authorizing the establishment of a Construction Checking Account designating certain persons authorized to perform necessary duties associated with said account; receive and file of the July 2016 check register; authorizing the implementation of annual step increase for the City Manager; and authorizing the Mayor to sign a letter of support for AB 723 (Chin) related to Community Development Block Grant (CDBG) Program. Motion carried 5-0.

ITEMS REMOVED FROM THE CONSENT CALENDAR

Water Revenue Update

Mayor Wilson said as he understands it, this item is related to the step increase in water rates.

City Manager Knopp clarified that this is just an update on the water revenues

and an agenda item authorizing the next scheduled increase will come back to the Council in December or January. He said this is simply an information item tonight.

Motion was made by Wilson/Johnson to receive and file the Water Revenue Update as submitted. Motion carried 5-0.

SPECIAL PRESENTATIONS/STUDY SESSIONS

Presentation by Bartle Wells Associates – Sewer Rates for RV Parks and RV Parking Spaces/Adopt Resolution No. 1306-2016 Restating Sewer Rate Definitions for Commercial Users

Finance Director Woodcox provided a power point presentation on Wastewater Revenue and said the wastewater study started out with a goal of collecting \$1,167 million in revenue the first year (2014/15). She noted that revenues for fiscal years 2014/15 and 2015/16 came in slightly higher and is estimated to come in a little high for fiscal year 2016/17 as well. She presented a comparison chart on **Wastewater Study Revenues vs. Actual Revenue** and noted that the rate study revenue was increased slightly to reflect the built-in annual consumer price index (CPI) adjustment which takes into account the cost of future replacement of infrastructure.

She said the issue here tonight is to consider a discount rate for RV spaces and RV parks. She commented that Bartle Wells Associates (BWA) indicated that one option would be to categorize those uses as commercial which would decrease their bill significantly. She said the EDU's would then be adjusted annually based on actual water use.

Alison Lechowicz, Vice President and Financial Analyst from Bartle Wells Associates (BWA) continued with a power point presentation on **City of Rio Dell Wastewater Rate Study Review**. She began with background information stating that in 2014, BWA conducted a sewer rate study for the City with the intent to develop a rate structure with a volume rate component. The final outcome was a sewer rate based on a 70% fixed charge and 30% volume charge.

Alison said the question for the Council to determine is whether RV spaces and RV parks should be charged as residential or commercial customers.

She said under the residential rate each space is charged 1 EDU for the fixed charge and the volume charge is based on the winter water use like any other residential use.

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Under the Commercial rate the number of EDU's is based on the flow and pollutant strength with the volume charge based on the same winter use as residential.

Alison continued with review of the advantages and disadvantages of each of the billing options; a Wastewater Bill Survey of 9 other local mobile home parks as well as residential rates; and an example of bills for a mobile home park based on 37 spaces under the residential rate and commercial rate. The annual bill under the residential rate was computed at \$22,894.56 vs. the commercial rate which was \$6,647.90.

She pointed out that this is really a policy decision since there really is no right or wrong way to bill the parks but said the question is whether the characteristics of the park are more like a residential customer or commercial customer. She noted that most parks charge as residential and that Rio Dell's current charges are not absorbent when looking at the survey of other jurisdictions.

Councilmember Thompson questioned the correlation between the cost of a rental home that may be vacant for 2-3 months a year vs. the cost of vacant mobile home/RV spaces.

Alison stated that mobile homes have a higher percentage of vacancies whereas; rental homes are more stable.

Mayor Pro Tem Johnson stated that he likes the commercial model for RV parks but the part that he is not too enamored with is the winter average for the volume charge and said averaging water use for the months of April, May and June would be more representative of a year's worth of occupancy for an RV park. He asked if that is something the current billing software could do; Finance Director Woodcox said that it could.

Mayor Wilson asked how many parks in the City are actually RV parks and referred to the 20% commercial classification eligibility for RV parks needed to qualify for the discounted rate.

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Finance Director Woodcox indicated there are 1 RV Park and 1 mobile home park with 39 spaces with 8 dedicated RV spaces. She noted that the River's Edge RV Park is designated as an RV Park although many of the residents are there year round.

Mayor Wilson asked for clarification on the billing calculations for mobile home/RV parks and said that Mr. Rutherford addressed the Council at the July 19th meeting and talked about the mobile home parks being over-charged for unoccupied RV spaces and had done a study of other rates to compare data. He said he was confused because that information was given to staff with direction to look at the comparisons and verify whether the information was correct or not correct and now we have BWA here with pretty much a Wastewater Rate Study which is not what he understood would be happening.

Finance Director Woodcox stated that neither she or the City Manager were here when the Wastewater Rate Study was done therefore; staff invited the person who was here through the entire process to help answer questions that have become very complicated. She said it seemed to be a very good idea to bring someone in that could answer the Council's questions and address Mr. Rutherford's proposal.

Mayor Wilson asked what the cost was for BWA to be here and how that information will be tied into the information Mr. Rutherford presented.

City Manager Knopp clarified that what BWA presented was not a wastewater rate study but merely a power point presentation and the cost to have the Bartle Wells consultant here is \$1,300.

Finance Director Woodcox responded to the second part of Mayor Wilson's question and said she would recommend Mr. Rutherford's proposal be presented to the consultant then she can respond as to whether that is an effective way of billing because there are different methods for billing these types of accounts. She explained to Alison that Mr. Rutherford had presented information where RV's are charged anywhere from .5 EDU to 1 EDU in other parks and asked her to explain why that would or would not be an effective way for the City to bill the parks.

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City Manager Knopp said basically what the question amounts to is whether to reduce the EDU calculation or convert the parks to a commercial rate.

Alison stated that she found that there are not many agencies that cut the EDU as mobile home parks are already getting a discount due to low water usage and in fact she did not see in her survey any agencies that cut the EDU in half whether it was considered residential or commercial.

Mayor Wilson said he wants to get Mr. Rutherford's questions answered and said his concern with being fair as far as the River's Edge RV Park; it's his understanding that it's not really a park where tourists come in and park and use it as a tourist spot. He said what he doesn't want to see is the Council doing something that penalizes the only real RV park we have in town for tourists, or make it burdensome for them to continue to operate. He asked if the reduced rate would apply to mobile home spaces as well.

Finance Director Woodcox commented that mobile homes are specifically classified as residential in the water resolution so would think the Council would want to follow along those same lines for the sewer.

Jim Rutherford spoke on behalf of the Rio Dell Mobile Park and stated that there are actually 10 spaces designated as RV spaces.

Councilmember Thompson questioned whether Mr. Rutherford had a financial interest in the mobile home park or was given power of attorney to speak on the owner's behalf.

Mr. Rutherford said that he does not have a financial interest in the business but is authorized to speak on the owner's behalf. Also, Thelma Maddox, the property owner is present.

He said he came to a meeting in March and presented data regarding rates for RV's and mobile home parks and encompassed agencies basically coast to coast. He said in many cases, EDU's were identified anywhere from .25 for RV's up to .50 for mobile homes. He said at that time, the Council felt the study was too broad and asked him to focus more on local agencies.

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As such, he went to 12 water/sewer districts in Humboldt County to get rate schedules. He then presented a ***Sewer Rate Summary for RV's in Humboldt County*** which showed Rio Dell as having the highest rates. He noted the average cost to park an RV in Humboldt County based on the survey is \$30.05; in Rio Dell it is \$61.15. He said in addition, they have to pay for unoccupied spaces and it doesn't make sense for the City to charge for something that is not being used.

Mayor Wilson stated that Mr. Rutherford did a pretty good study and although he is not sure where it fits in with the Bartle Wells commercial rate it seems that between the 2 studies, they should be able to come with an equitable rate for the mobile home/RV parks.

Finance Director Woodcox said staff feels the proposed resolution changing the park from residential to commercial establishes fair and equitable rates because it's based on actual water consumption and when those numbers are plugged into the EDU calculation as well as the strength calculation it creates a fair, sustainable commercial business rate model.

Mr. Rutherford stated that what it doesn't take into consideration is that RV's are usually calculated at .5 EDU's and that the City Council decided unanimously a few month ago that an RV only uses 50% of the normal water usage yet they are charged for unoccupied spaces. He noted that whether an RV flushes a toilet continually for 24 hours or not at all, they are still charged \$61.15.

Mayor Wilson asked what happens to revenue when you take the current rates and go to the commercial rate for the RV spaces.

Finance Director Woodcox said it results overall in a reduction in revenue of \$26,000 annually if the commercial rate applies to both the River's Edge RV Park and the Rio Dell Mobile Park. She said the Rio Dell Mobile Park would see a significant reduction; approximately \$1,400/month and they would only be charged for 8 or 9 EDU's as opposed to 39 EDU's.

Mr. Rutherford then requested the Council amend the sewer ordinance to state that RV spaces be charged 50% of the rate used for single family dwellings,

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reducing the current \$48.43 to \$24.22 for RV spaces plus an additional rate of \$4.24 per unit of water used for occupied spaces. He said these exact numbers would change as the sewer rate is increased but would always be 50% of the rate used for single family dwellings. He added that this sewer rate will bring the City's rates in line with other rates in Humboldt County.

Thelma Maddox interrupted Mr. Rutherford and said she in fine with the City's proposed resolution.

Mayor Wilson suggested staff take Mr. Rutherford's proposal, Bartle Wells proposal and sit down with the mobile home park owner and come back with a solution that works for everyone.

Mayor Pro Tem Johnson said historically the City has used a couple of different methods for establishing sewer rates and said he would be in favor of an ordinance that reflects the submittal of monthly occupancy or having staff go out to verify the occupancy in the parks.

City Manager Knopp said staff was advised to not do that because there is not a way to verify the authenticity of the numbers. He said that is the reason for making the best average possible by using winter month's water usage. He said in moving forward, he is concerned about staff negotiating with a specific rate payer without the rates being thoroughly analyzed. He added that Bartle Wells Associates (BWA) was hired to come in and take a second look at the rates and evaluate them. He added that he appreciates Alison coming here so the Council would be able to take action tonight and staff thinks the resolution is legal and responsible for all parties involved as well as all rate payers and the system itself.

He said the ball is in the City Council's hands as to whether they want to change them to a commercial based rate or continue status quo with what was adopted in 2014. He noted that both models are legal, legitimate options.

He suggested the Council hear from Norm Ehrlich, the owner of River's Edge RV Park and said staff's recommendation is to adopt the proposed resolution; not negotiate rates in a public setting.

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Councilmember Garnes commented that she understands the concept of only charging for occupied spaces but does have to question the charge for actual usage. She said she pays the residential rate based on 1 EDU and only has 1 bathroom whereas; an RV could essentially have 2 bathrooms. She said to adjust 2 customer's bills and not every rate payer just because they live in a house doesn't seem right and questioned the fairness to all rate payers.

City Manager Knopp said the question is whether they should be identified as a commercial customer or residential customer and that they currently are being billed legally as residential customers.

Discussion continued regarding variable EDU's and validation of occupied spaces.

Norm Erlich (River's Edge RV Park) addressed the Council and said he does have people coming and going all the time and often times has vacancies. He said once Rio Dell gets cleaned up, the occupancy rate will increase. He added that he purchased the park 11 years ago and reclaimed that mess. He invited the Council and staff to come down and see what he has done to improve the park including the recent installation of solar improvements.

He stated that he has been struggling with the sewer rates since the last increase which is unsustainable. He said he only has 1 sewer connection and has to manage and maintain his own sewer system. He added that he thinks staff's recommendation is fair and agrees with the new rates as proposed. Also, the consultant did a good job and that the Council should take her advice.

Mayor Wilson called for public comment on the proposed resolution.

Julie Woodall asked if the loss in revenue takes into account both mobile home/RV parks and since the current revenue is a little higher than projected if there will still be a revenue shortfall in the sewer fund.

Finance Director Woodcox commented that both parks were considered and the rate adjustments if approved, will result in a reduction in revenue of approximately \$16,000 for this first year.

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Al commented that he is a new resident of the City but if the City is charging for utilities that are not being used and the space is empty, they are basically stealing.

Deborah Bare said that she moved to Tucson, Arizona about two and a half years ago and while she was gone water and sewer service was turned off at her residence here and a lien was placed on the property for the sewer bill. She said she came back a few months ago and discovered she owed \$800.00 and was told the water could not be turned back on until she paid everything in full. She said she is required to pay \$48.00 a month for sewer she is not using and asked for an explanation.

Mayor Wilson suggested she come into City Hall and meet with the Finance Director who can explain the charges.

Sue Strahan stated that she has been involved in the RV business and part of that cost is being transferred to the rent of the space. She said that it is true that there are a lot of spaces at River's Edge RV Park that have permanent occupants and the question the Council should consider is how many of those spaces are actually filled but should also take into account that it is a business and that cost is being absorbed in the rent.

Tom Howe manager of Riverside Estates stated he was present on behalf of the property owner, Tim Steurer. He said they have private individual meters for each mobile home space and 1 master meter which is what they are billed from. He said they have 9 years of meter readings to show what each unit uses but it appears the City doesn't want that; maybe it's a trust issue? He said what they are asking for is some kind of adjustment there. He commented that they have water leaks so the owner is paying for the excess water usage but the tenants are paying for the extra sewer charge even though that portion of the water is not going into the sewer. He noted that part of their concern is that there are some tenants in the park on limited income and use only 1 unit of water per month but because the sewer charge is based on water that goes through the master meter, they are billed for the average which is 5.4 units.

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Mayor Wilson stated that he was aware there was a sizable leak at the park previously and explained that the City can't just accept someone's own meter readings; it has to bill for whatever water goes through the master meter.

Mayor Pro Tem Johnson commented as a point of order that the discussion is getting away from the agenzized item and a violation of state law and that the State is very critical with how municipalities establish water and sewer rates and it may not even be legal to accept private meter readings.

Councilmember Thompson stated that he agrees with Bartle Wells suggestion to change the 2 parks to a commercial rate and that it is a fair way to go. He said if you go any further than that, you open up a can of worms and everyone will want a rate adjustment. He pointed out that in 1978 all developed parcels in the City were subject to a sewer assessment to pay for sewer improvements. Since that time, several homes have been demolished or destroyed by fire yet they are still required to pay for the tax assessment for sewer. He said vacant parcels with sewer connections are required to pay the base sewer charge so to pick and choose who pays doesn't really work. He said he is not willing to go with another rate study and the commercial rate as presented by staff is fair and will also greatly benefit those rate payers.

Mayor Pro Tem Johnson thanked the people for participating in the discussion and said unfortunately, the Council can't satisfy all of the people all of the time. He said he agrees the commercial rate is probably the best way to go.

Councilmember Marks stated that as a Council, they have to be fair to everyone and also agrees with staff's recommendation.

Mayor Wilson also agreed with staff's recommendation and said it's been a good discussion and appreciates everyone's effort in putting together the information.

Motion was made by Johnson/Thompson to adopt Resolution No. 1306-2016 restating wastewater fees and charges and changing RV parks, including parks with 20% of spaces designated as RV spaces, from the classification of residential to commercial with annual adjustments to EDU's based on the prior winter's water consumption. Motion carried 4-1; Councilmember Garnes dissented.

SPECIAL CALL ITEMS/COMMUNITY AFFAIRS

Provide Staff Direction on Cannabis Land Use Ordinance

City Manager Knopp provided a brief staff report and said at the July 19, 2016 meeting, the Council directed staff to return with an agenda item at this meeting to provide staff direction on how the Council would like to proceed with the drafting of a Cannabis Land Use Ordinance. He said the other item is to consider whether the Council wishes to schedule a joint meeting with the Planning Commission. He presented 5 possible options for the Council to consider as direction to staff which he then reviewed.

Councilmember Thompson said as everyone is aware, he made 2 attempts to move forward with a Cannabis Land Use Ordinance restricting all cannabis activity north of the City at the Eel River Sawmill annexation area. He said he is still interested in that possibility and recommended requiring a \$50,000 bond for 10 years and a \$25,000 construction deposit for 5 years on the developer as well as funding to help the schools and families with drug addictions. He said the reason he suggested the bond be held for 10 years is that the City is dealing with unfamiliar ground and that it will likely take 5 or 6 years to put together the whole plan and another 5 years to see if the business is successful. He said if someone comes in to spend this kind of money, there should be some kind of protection for the City.

He said open field outdoor cultivation is something that he will not support in any areas of Rio Dell including the annexation area. He said staff provided the Council with a proposed draft cannabis ordinance and he personally sat down with staff and cleared up some concerns and is now in agreement with the proposed ordinance.

Mayor Pro Tem Johnson stated that he is leaning toward Option 5 as direction to staff to set a date for a joint meeting with the Planning Commission to talk about where everyone sees medicinal marijuana in the community. He said he would like to hear the Council's long-term vision for the City and said the City needs revenue and if it's not from the cannabis industry, would like to know how the Council is going to achieve that.

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Councilmember Garnes said she also agrees with Option 5.

Councilmember Marks said once again he is confused because the Council voted down the ordinance and now it's back. He said the Council also made the decision to place an advisory measure on the November ballot to hear from the citizens.

Motion was made by Marks/Wilson to table the item until after the November 8, 2016 general election.

Mayor Wilson stated that the Council brought forward on the ballot the advisory measure and that the ordinance can't be implemented without a tax measure. He said he has ideas of how he would like medical marijuana treated. He said he is favor of seeing what residents want then working with the Planning Commission and coming back with an ordinance everyone agrees with. He noted that it could have saved a lot of time if the Council had simply referred the ordinance back to the Planning Commission earlier on.

Mayor Wilson called for public comment.

Michael Martino addressed the Council and said that he owns 15 acres at the Eel River Sawmill annexation area and said what we have now is a bunch of non-profit collectives and what he plans to do is change that to for-profit businesses. He commented that Arcata has an innovative plan and he would like to develop 20-30 industrial facilities which could essentially generate \$100,000 in revenue to the City as the property becomes more valuable. He said the City has a lot of expenses and this is an easy way of generating revenue and with a track and trace program in place it will be done legally. He said he wants to pay taxes and have a legitimate business operation.

Tom Bertain read his written statement (included as attachment 2 to these minutes) which addressed his concerns related to security provisions in the ordinance.

Julie Woodall said she would agree with tabling the item until after the November election and said the issue is on the ballot as an advisory measure but

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the people need to know what the plan is so they can make an informed vote. She said she feels the Council doesn't want citizens to know about the restrictions because if they know, they will probably vote for it. She said she wishes that people could have heard what she heard as a Planning Commissioner so they would have a better understanding of medical marijuana.

There being no further public comment, the public comment period was closed.

Councilmember Thompson stated that as it currently stands, all outdoor open field cultivation is prohibited in the inner part of the city. If the Council moves forward, that can continue to remain in place and the only cultivation would occur at the Eel River Sawmill annexation area in an enclosed area. He said there is a possibility the portion of the Mozzetti property annexed into the city could revert back to the County if they decide to detach from the City and that entire area could then be utilized for outdoor cultivation. He said the way he sees it is that it is the lesser of 2 evils to allow that area to be developed as a medical marijuana facility and by moving forward in that direction, the City can continue to regulate the activities. If the Council drops the ball now, it is very well possible there will be outdoor cultivation all around the City. He said he feels confident in moving this forward now as opposed to postponing it because of the apparent consequences which is something he doesn't want to see. He added that smell and sound will not be an issue at the annexation area with it being enclosed in structures.

He said according to today's reports, the 2016 Cannabis Legalization bill shows a 68.2% voter approval so if that's true, recreational marijuana will become legal and the whole picture will change. He said if the Council doesn't take the step to move forward now with the ordinance as proposed or a similar ordinance, it will be a lost revenue opportunity for the City.

City Manager Knopp asked for clarification as to whether Councilmember Thompson was making a substitute motion to that effect. He noted that there currently is a motion on the floor to table the item until after the election and once the Council takes action on that motion; it's done unless a substitute motion is made. He said if the Council wants to make a motion to hold a joint meeting the Planning Commission or take action on the ordinance tonight; it needs to be made through a substitute motion.

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Mayor Wilson said as he understands parliamentary procedure, the Council can first vote on the first motion and if it fails could entertain an alternate motion or; as the City Manager described, a substitute motion can be made.

City Manager Knopp said it would be the Mayor's preference either way but what staff is trying to do is facilitate the will of the Council to provide direction to staff on how to proceed.

A substitute motion was then made by Thompson/Johnson to direct staff to draft a Cannabis Land Use Ordinance specific to the Eel River Sawmill annexation area and that the proposed draft ordinance be used as a model as submitted to the City Clerk which does not allow any open field outdoor cultivation.

Councilmember Thompson then read 8 bullet points as recommended changes to the Commercial Medical Cannabis Land Use Ordinance (CMCLUO) (included as attachment 3 to these minutes).

Mayor Pro Tem Johnson commented on the Mozzetti Ranch property and said currently there is a portion of land in the City but a majority of the land is in the County. He pointed out that they could apply for a permit through the County for outdoor cultivation without detaching from the City.

Councilmember Garnes commented that everyone understands her views on the matter so really have nothing more to say at this point.

Councilmember Marks said apparently "No" doesn't mean "No" so if the Council is going to make the decision to move forward with the ordinance now, the note in November is basically mute.

Mayor Wilson said as he understands it, by not having an ordinance in place prior to the November election, the Council could basically go back to square one and go back and look at activities in the Town Center (TC) zone.

Michael Martino stated for clarification that there won't be any pot plants visible at his proposed business location and everything would be indoors including ancillary businesses selling such things as edibles and tinctures. He said for the City to skip the opportunity to generate revenue to fund schools and law

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enforcement is a shame. He said marijuana is much like wine in the sense that it can be used responsibly. He said the fact is that it will become legal, he wants to pay taxes and wants to be able to put money into the bank legitimately. He said for a community to stick their heads in the sand is not wise. He offered to submit renderings of his proposed development.

City Manager Knopp restated the motion for clarification with direction to staff to draft a new Commercial Medical Cannabis Land Use Ordinance based on the draft provisions submitted to the City Clerk for the Eel River Sawmills annexation area north of the river with no outdoor cultivation allowed.

Mayor Wilson commented that he gets the whole idea but has not read the draft ordinance.

He then called for a vote on the motion. The motion passed 3-2; Marks and Wilson dissenting.

Adopt Resolution No. 1308-2016 to Amend the FY 2016-17 Operating Budget and Authorizing \$7,000 in Additional Funding to Combine with \$40,000 Previously Allocated Funds, and \$20,000 of Potential USDA Grant Funds for the Purchase of Two (2) New Police Vehicles

Chief of Police Hill provided a brief staff report and said during the budget process staff presented information for the purchase of two (2) police vehicles whereby utilizing a combination of general funds and potential USDA grant funds. He said the original intent was to utilize \$40,000 of USDA grant funding and \$40,000 of city money to purchase and equip two (2) SUV's. He said since the original proposal, the USDA grant funding was reduced to around \$20,000 and due to this reduction, staff obtained quotes for Ford sedans rather than the Ford SUV's as they are cheaper and require less equipment. He noted that they will also be able to use the existing light bars from the vehicles they will be taking off line.

He said staff is requesting a transfer of \$7,000 from the reserves of AB 109 funding that is restricted funding for the police department to make up for the additional funds to cover the cost of the new police sedans.

AUGUST 16, 2016 MINUTES
Page 17

Mayor Pro Tem Johnson asked when staff could expect a decision from USDA on the grant funding.

Mayor Pro Tem Johnson asked when staff could expect a decision from USDA on the grant funding.

Finance Director Woodcox stated that staff will submit the paperwork to USDA and they will potentially do a site visit before final approval of the funding.

Mayor Wilson called for public comment; no public comment was received.

Motion was made by Johnson/Garnes to adopt Resolution No. 1308-2016 *Approving a Transfer of AB109 Funds Amending the Operating Budget for the Fiscal Year 2015-2017*. Motion carried 5-0.

REPORTS/STAFF COMMUNICATIONS

City Manager Knopp provided a written staff report (Included as attachment 4 to these minutes).

Finance Director Woodcox reported on recent activities in the finance department and said she was finishing up the budget document itself and also announced that she will be attending a budget workshop in Sacramento at the end of the month in order to get a handle on things that may need to be integrated into the accounting system.

COUNCIL REPORTS/COMMUNICATIONS

Mayor Pro Tem Johnson announced that the next League of California Cities quarterly meeting will be held in Arcata on August 19, 2016 and invited anyone who may be interested in attending.

ADJOURNMENT

Motion was made by Johnson/Garnes to adjourn the meeting at 8:40 p.m. to the September 6, 2016 regular meeting. Motion carried 5-0.

AUGUST 16, 2016 MINUTES
Page 18

Frank Wilson, Mayor

Attest:

Karen Dunham, City Clerk

SEWER RATES FOR RVs IN HUMBOLDT COUNTY

Compared to an average of .5 (374 CF)535 Gallons per space used at Rio Dell Mobile Park during July 2016

DISTRICT	BASIC RATE	Additional Usage	Used	Cost of Basic + 535 CF	
Fortuna	38.02	First 500 CF Free + 8.45 per 100 CF	374 CF	38.02 + 00 =	38.02
Eureka	11.54	First 2 units free	.5 units	11.54 + 0 = 11.54	11.54
Humboldt CSD	10.79 .5 EDU	Base + 2.96 per 100 CF	374 CF	10.79 + 11.07 =	21.86
Manila CSD	38.33	Flat Rate of 38.33 no extras		38.33 + 0 =	38.33
Arcita	39.74	First 400 CF free then 6.13/100CF	374 CF	39.74 + 00 =	39.74
Mckinleyville	26.09	Base + 1.27 per 100 CF Occupied	374 CF	26.09 + 4.75 =	30.84
Rio Dell	48.43	48.43 + 3 units @ 4.24 per unit	.5 Units	48.43 + 12.72 = 61.15	61.15
Tranidad	No Sewer			No sewer in district - water only	
Blue Lakes	No RVs			No RV parks in District	
Ferndale	No RVs			No RV parks in District	
Willow Creek	No Sewer			No sewer in district - water only	
Hydesville	No Sewer			No sewer in district - water only	

Average cost in 6 other Humboldt districts 30.05 0.49%

Cost in Rio Dell 61.15

We paid to dump 3 units of water but only used .5 units per space

We paid 611.50 for our 10 RV spaces, other districts average 282.10 Per Month

Breakdown of water usage per space for July 2016

Space	Usage/Unit	Gallons
1	0.77	576
2	0.37	276
3	1.11	830
4	0.88	658
5	0	0
6	0.77	576
7	0.8	598
8	0	0
9	0	0
10	0.31	232
TOTAL	.5 units per space	3,746 gallons ÷ 10 spaces = .5 units per space

8-16-16

In the ordinance there should be a subsection to security that requires:

1- Complete background check of each employee of the firm including credit and law enforcement agencies.

2- Complete background check of each owner, if sole proprietor, a partner ship or limited liability corporation, including credit and law enforcement agencies.

3- Complete background check of each official and employees, if the business is a corporation, including credit and law enforcement agencies.

A complete history of the corporation including initiating dates, place of incorporation, list of stockholders with percentage of stock holding, ownership and control in subsidiary companies in state, (out of state) (out of country).

4- If any foreign nationals are employed, a complete background check including, credit, law enforcement, and immigration will be required. All work permits and visas will be current and valid.

5- Law enforcement agencies will include local, state and Federal agencies.

6- Low level derogatory information from background checks will not preclude employment or permitting.

Tom Bertain

Council Member Thompson's Recommended Changes to the Commercial Medical Cannabis Land Use Ordinance (CMCLUO)

- Eliminate dispensaries as an allowed use within the City, including the Sawmill Annexation area;
- Limit all cannabis related activities to the area known as the Sawmill Annexation area. Pages 7, 8 and 9 of the Draft CMCLUO;
- Clarify the difference between Outdoor (open field) and Greenhouse cultivations. Definitions pages 5 and 6 of the Draft CMCLUO;
- Clearly prohibit Outdoor-Open Filed cultivation within the City. Definitions page 6 and General Provisions pages 7, 8 9 and 10 of the Draft CMCLUO;
- Eliminate odor discharges to neighboring properties from cultivation and manufacturing facilities. Pages 14 and 18 of the Draft CMCLUO;
- Require that employees involved in cultivation and processing activities have access to coveralls in addition to facemasks and gloves. Page 15 of the Draft CMCLUO;
- Require that cultivation, processing, manufacturing facilities, testing laboratories and dispensaries be alarmed with either an audible or silent alarm system that are operated, monitored by a recognized security company. Page 12 of the Draft CMCLUO;
- Require that security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission for cultivation, processing, manufacturing facilities, testing laboratories and dispensaries. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission. Page 12 of the Draft CMCLUO.

CM Update 8-16-2016

A Neighbor is now interested in the Habitat parcel. The neighbor, engineers from GHD and staff will review the site on August 26th.

Chamber of commerce is intending on repainting the chamber building. The chamber may depart from beige colors for something more wild and vibrant.

Staff will issue a press release regarding official candidates for City Council on Thursday morning.

Saturday September 17th will be Rio Dell's Annual E-Waste day.

Staff is working on bid procedures for the FY 2016-2017 paving project.

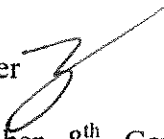
City will be helping to organize the annual river bar cleanup.

*Rio Dell City Hall
675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532
riodelcity.com*



September 6, 2016

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager 

SUBJECT: Presentation on November 8th General Election Measure 'S' Related to Commercial Marijuana Cultivation Taxes in the Unincorporated Areas of Humboldt County

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Receive the presentation.

BACKGROUND AND DISCUSSION

County Administrative Officer (CAO) Amy Nilsen and Undersheriff Bill Honsal have requested time to give a presentation on Measure 'S' before the City Council. Measure 'S' is a proposed commercial marijuana cultivation tax.

The Humboldt County Board of Supervisors approved the Commercial Marijuana Cultivation Tax Ordinance on July 19, 2016 and placed the Measure on the November 8, 2016 General Election ballot on August 9, 2016. The proposal was developed after a presentation on June 21st to the Board showing the results of public opinion polling on the topic of commercial marijuana. The polling showed that countywide support for a commercial marijuana measure was three quarters of the poll respondents.

Measure 'S' would establish a tax of \$1.00 to \$3.00 per square foot on permitted cultivation. If passed, the County is currently estimating 400 permit holders generating approximately \$7.3 million annually in discretionary tax revenue.

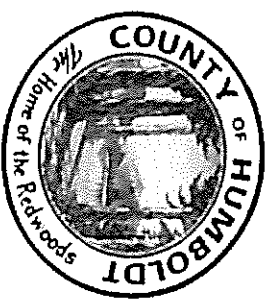
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Humboldt County California's Redwood Coast

Information About Measure S

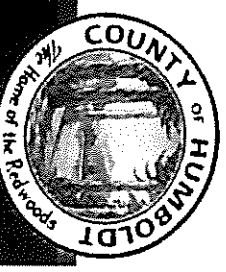
Humboldt County

Fall 2016



What is Measure S?

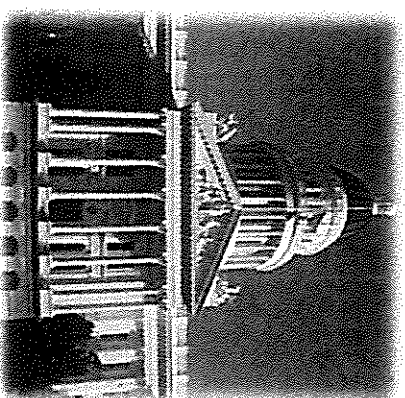
- On August 9, the Humboldt County Board of Supervisors unanimously placed Measure S on the November ballot.
- Measure S is a local commercial marijuana cultivation measure that, if enacted by voters, will help maintain local County services with locally-controlled funding.



HumboldtCounty California's Redwood Coast

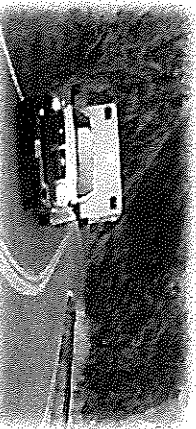
Why was Measure S placed on the ballot?

- Humboldt County prides itself on fiscal responsibility, and protecting your public safety, environment and quality of life.
- The State has continually taken money from the County budget – over \$325 million from Humboldt County alone.
- Measure S would provide locally-controlled funding that cannot be taken by the State



Why was Measure S placed on the ballot? (continued)

- Measure S would provide a source of local funding to maintain essential services that cannot be taken by the State, including:
 - ✓ Enforcing laws that require marijuana growers to protect natural areas and waterways
 - ✓ Maintaining services for victims of child abuse
 - ✓ Maintaining rural ambulance service
 - ✓ Maintaining mental health services for children and families
 - ✓ Providing emergency communications for medical and first responders
 - ✓ Cleaning up after environmentally damaging marijuana farms



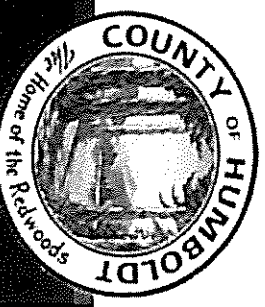
How does Measure S help protect our natural resources and beauty of our County?

- Illegal marijuana farms are destroying our environment and risking our health by:
 - Diverting and drying up sensitive creeks and streams
 - Use toxic pesticides that harm wildlife and risks public health
- If enacted, Measure S will ensure marijuana growers pay their fair share to:
 - Help protect our public safety, health and environment
 - Enforce laws that require growers protect our County's natural areas and water quality



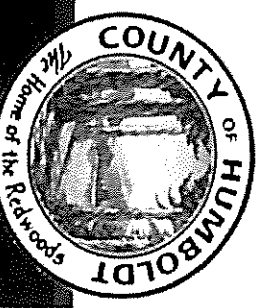
How does Measure S address the illegal drug industry and increased narcotics use in our region?

- Hard drugs and narcotics like meth and heroin continue to be a growing problem in our County.
- With over \$325 million in State takeaways over the past 24 years, Sacramento has taken significant revenue from Humboldt County's budget.
- Measure S would provide additional local funds to fight:
 - Drug-related crimes
 - Eliminate drug labs
 - Provide drug prevention and rehabilitation services.



What does Measure S cost?

- If enacted, Measure S will tax commercial marijuana growers a rate of \$1-\$3 per square foot tax, based on the type of commercial marijuana grow.
- Funds from Measure S would be subject to strict accountability provisions including:
 - Annual independent audits
 - Public review of expenditures to ensure funds are spent efficiently and responsibly

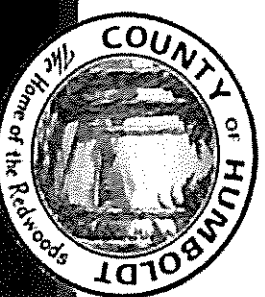


Humboldt County

California's Redwood Coast

When is the election?

- Measure S is on the November 8, 2016 ballot.
- To register to vote online and for more elections information, visit the Humboldt County Elections Department at humboldt.gov.org.



Where Can I Get More Information?

- The County will continue to update the community about Measure S.
 - Get more information at: humboldtgov.org
 - Sign up for our County e-newsletter: humboldtgov.org/newsletter
 - Visit humboldtgov.org/OpenHumboldt to provide your feedback





675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: September 6, 2016

To: City Council

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager 

Date: August 31, 2016

Subject: Possible Elimination of the Wildwood Avenue Sculpture Committee

Recommendation:

That the City Council:

1. Consider and discuss the possible elimination of the Sculpture Committee; and
2. Open the public hearing, receive public input and deliberate; and
3. Provide direction to staff.

Discussion:

As the Council is aware the City established a Sculpture Committee in 2014 to review and approve potential sculptures to be placed on two pedestals that were constructed as part of the Wildwood Avenue enhancement project.

The Wildwood Avenue Sculpture Committee is responsible for reviewing and approving applications for the placement of sculptures along the Wildwood Avenue corridor. The Committee consists of the Community Development Director, one member of the City Council (Mayor Wilson) and one alternate City Council member, one member from the Rio Dell-Scotia Chamber of Commerce (Susan Pryor), one member from the Eagle Prairie Arts District (Jim Box) and one public member (Cheryl Gatlin) residing within the City limits. The alternate City Council member only participates when the regular City Council member is unable to serve due to scheduling concerns or a conflict of interest. The Committee meets on call.

Our public member Cheryl Gatlin moved out of the area in the spring of 2015. We have posted vacancy fliers and solicited applicants in a number of our newsletters without any success. As such, the Council may want to consider eliminating the Committee and assuming the responsibility for reviewing and approving applications for the placement of sculptures along the Wildwood Avenue corridor.

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September 6, 2016

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Discussion and Possible Action Regarding Downtown City Parking Lot Improvements

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Provide direction to staff.

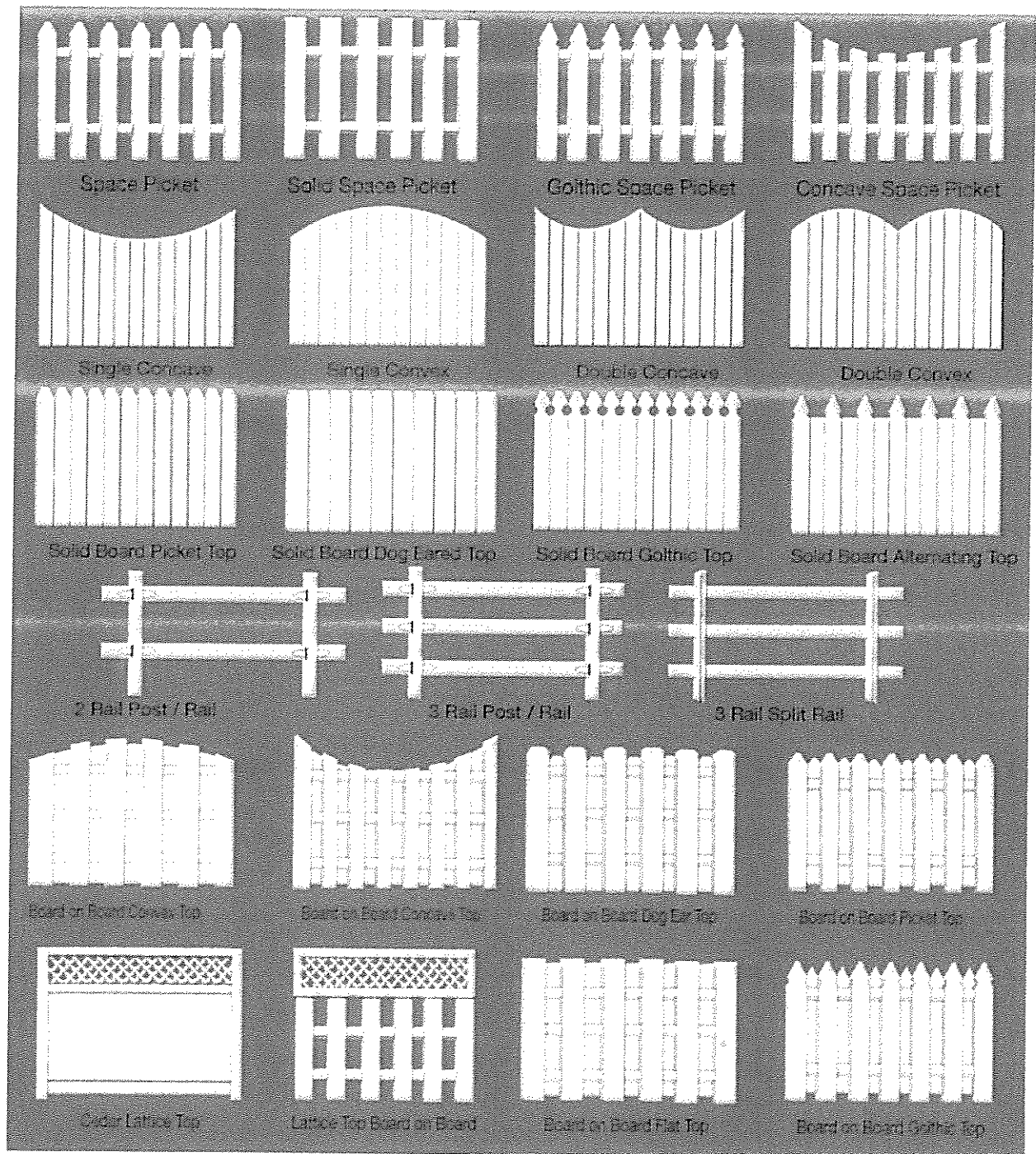
BACKGROUND AND DISCUSSION

The City Manager will provide an update on the final work being undertaken to modify the City's downtown parking lot. This includes the possible installation of a fence and recommendations to move forward on this project, if desired.

///








675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: September 6, 2016

To: City Council

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager 

Date: August 29, 2016

Subject: Medical Cannabis Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code

Recommendation:

That the City Council:

1. Receive staff's report regarding establishing Medical Cannabis Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC); and
2. Open the public hearing, receive public input and deliberate; and
3. Introduce (first reading) Ordinance No. 348-2016 establishing Medical Cannabis Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code and continue consideration, approval and adoption of the proposed Ordinance to your meeting of September 20, 2016 for the second reading and adoption.

Background

At the Council meeting of August 16th, the Council directed staff to bring back a "new" ordinance restricting all cannabis activities to the north side of the river, the area known as the Sawmill Annexation area. As the Council is aware this is exactly what Councilmember Thompson suggested at the May 24, 2016 meeting and Mayor Wilson suggested a couple times throughout the six month City Council public hearing process.

Discussion

Councilmember Thompson has recommended a number of minor changes in addition to limiting all cannabis activity to the north of the Eel River in the area known as the Sawmill Annexation area. Other than Mayor Wilson who has previously suggested that all cannabis related activities be limited to the area north of the river, no other Council members have recommended any changes.

As the Council is aware, Section 17.35.010 of the Rio Dell Municipal Code requires that any changes be referred back to the Planning Commission. Below is a copy of the referenced section:

- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

Because a number of changes have been made to the April 12th, 2016 Planning Commission's recommended Ordinance No. 342-2016, staff presented the changes to the Planning Commission at their meeting of August 23rd. As the Council might expect because the changes are more restrictive, there was not a lot of discussion regarding the proposed changes. There was some discussion regarding the background check and in particular disqualifying felonies. Staff reminded the Commission that both the background check and disqualifying felony provisions are requirements of the State's MCRSA

Because the original Planning Commission recommended regulations, Ordinance No. 342-2016 was not approved, staff has been advised procedurally that the current recommended regulations are considered a new ordinance. Ordinance No. 348-2016 was previously provided to the Council and is again attached for your review.

Again, other than restricting all cannabis related activities be located north of the Eel River in the area commonly known as the Sawmill Annexation Area, staff considers the other changes minor in nature. Below is a summary of the changes:

- Limit all cannabis related activities to the area known as the Sawmill Annexation area. Pages 7, 8 and 9 of the Draft CMCLUO;
- Eliminate dispensaries as an allowed use within the City, including the Sawmill Annexation area;
- Clarify the difference between Outdoor (open field) and Greenhouse cultivations. Definitions pages 5 and 6 of the Draft CMCLUO;
- Clearly prohibit Outdoor-Open Filed cultivation within the City. Definitions page 6 and General Provisions pages 7, 8 9 and 10 of the Draft CMCLUO;

- Eliminate odor discharges to neighboring properties from cultivation and manufacturing facilities. Pages 14 and 18 of the Draft CMCLUO;
- Require that employees involved in cultivation and processing activities have access to coveralls in addition to facemasks and gloves. Page 15 of the Draft CMCLUO;
- Require that cultivation, processing, manufacturing facilities, testing laboratories and dispensaries be alarmed with either an audible or silent alarm system that are operated, monitored by a recognized security company. Page 12 of the Draft CMCLUO;
- Require that security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission for cultivation, processing, manufacturing facilities, testing laboratories and dispensaries. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission. Page 12 of the Draft CMCLUO.

Another item of discussion was the possibility to require a construction deposit and/or performance bond for new cannabis related facilities. Performance bonds are typically associated with public improvements and/or public projects. Staff is checking with the City Attorney on the applicability of requiring a construction deposit and/or performance bond for new cannabis related facilities.

Attachment 1: Draft Ordinance No. 348-2016, Medical Marijuana Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC).

ORDINANCE NO. 342-2016



An ordinance establishing Section 17.30.195 of Title 17 of the Rio Dell Municipal Code relating to the Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use.

The City Council of the City of Rio Dell ordains as follows:

WHEREAS, California Government Code Section 65850, et seq. authorizes counties and cities to regulate land use, including agriculture, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on October 9, 2015 Governor Brown approved a package of three bills enacted by the legislature on September 11, 2015, SB 643, AB 243, and AB 266, providing for comprehensive, concurrent regulation and licensing by state and local governments of medical cannabis as an agricultural product, including its cultivation, processing, testing, manufacture, distribution, transportation, dispensing, and delivery; and

WHEREAS, pursuant to Section 11362.777, subsection (c)(3), "A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the Department of Food and Agriculture's state licensing requirements"; and

WHEREAS, the state statutes establishing a regulated, legitimate basis for commercial medical cannabis economic activities under the authorization of state law provide an opportunity to bring unregulated activities into compliance with existing law and ameliorate adverse environmental impacts, while bringing it out of the shadows of an underground, black-market economy into a legitimate agricultural and commercial contributor to the local and state economy; and

WHEREAS, the City of Rio Dell has previously adopted a land use ordinance governing indoor and outdoor cultivation of medical cannabis for personal use; and

WHEREAS, the Planning Commission held five public hearings on the proposed Ordinance governing the Commercial Cultivation, Processing, Testing, Manufacturing and Distribution of Cannabis for Medical Use to receive a reports on the draft ordinance, as well as evidence and public testimony; and

WHEREAS, the Planning Commission reviewed and considered the report, evidence, and other testimony presented to the Commission, and recommended revisions to the draft land use Ordinance Governing the Commercial Cultivation of Commercial Cultivation, Processing, Manufacturing and Distribution for Medical Use; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Rio Dell does hereby ordain as follows:

SECTION 1. Section 17.30.195 of Title 17 of the Rio Dell Municipal Code is hereby added as follows:

(1) Authority and Title

This Section shall be known as the Medical Cannabis Commercial Land Use Ordinance (“MCCLUO”), which provides for the regulation of Commercial Cultivation, Processing, Manufacturing and Distribution of cannabis for medical use, as defined in this Code, located within the City of Rio Dell

(2) Purpose and Intent

The purpose of this Section is to establish land use regulations concerning the commercial cultivation, processing, manufacturing and distribution of cannabis for medical use within the City of Rio Dell in order to limit and control such cultivation in coordination with the State of California in the implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)(SB 643, AB 266, and AB 243 as adopted September 11, 2015, and approved by the Governor on October 9, 2015), so as to ensure the health and safety of employees, independent contractors, visitors to the area, neighboring property owners, and end users of medical cannabis; to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the medical cannabis; and to safeguard against the diversion of medical

cannabis for non-medical purposes. It is intended to address the City of Rio Dell's prerogative to permit, and control commercial cultivation, processing, manufacturing and distribution of cannabis for medical cannabis as set forth in the MCRSA, including, but not limited to the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360 and Health and Safety Code Section 11362.777, in conjunction with state licensing requirements, in order to protect the public health, safety, and welfare of the residents of the City of Rio Dell, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation operations in the City of Rio Dell, and to prevent adverse environmental effects of any new commercial cannabis activities which may be permitted in the future in accordance with this Section and state law. This Section is not intended to supersede the provisions of Section 17.30.190 of the Rio Dell Municipal Code concerning cultivation of medical cannabis for personal use.

(3) Applicability and Interpretation

- (a) These regulations shall apply to the location and permitting of commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use in zoning districts within which such use is authorized, as specified in this Section.
- (b) The commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use within the jurisdiction of the City of Rio Dell shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.
- (c) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, from compliance with all other applicable zoning, and land use regulations, as well as compliance with any applicable state laws.
- (d) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.
- (e) Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, manufacturing, or distribution of cannabis for medical use on private property.
- (f) The definitions in this Section are intended to apply solely to the regulations in this section.

- (g) Notwithstanding the fact that Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section and the MCRSA, Business and Professions Code Section 19300, et. seq., the commercial cultivation of cannabis for medical use is a highly regulated specialty crop and cultivation and processing of that specialty crop shall not be allowed as a principal permitted use unless a Conditional Use Permit is first obtained from the City of Rio Dell, and the person engaged in such activity has obtained all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available.

(4) Release of Liability and Hold Harmless

As a condition of approval for any Conditional Use Permit approved for the commercial cultivation, processing, manufacturing, testing, or distribution of cannabis for medical use, as defined herein, the owner or permittee shall indemnify and hold harmless the City of Rio Dell and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use.

(5) Penalties and Enforcement

All of the remedies provided for in this Section shall be cumulative and not exclusive of remedies available for violations under any other Section of the Rio Dell Municipal Code and the MMRSA.

Any violation of this Section, including, but not limited to failure to obtain and maintain in good standing the required Conditional Use Permit specified in this Section, shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the City under the applicable state and City laws, including those set forth in Section 17.40.020 of the Rio Dell Municipal Code.

(6) Definitions

“Area of Traditional Tribal Cultural Affiliation” means geographic areas of historic occupancy and traditional cultural use by local indigenous peoples (California Native American Tribes), as shown on the latest mapping prepared by the County of Humboldt Planning & Building Department, created from geographic information supplied by the Tribes of Humboldt County.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be

discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means cannabis as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agriculture Code or Section 11018.5 of the Health and Safety Code.

"Commercial Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Cannabis Regulation and Safety Act (MCRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

"Cultivation Area" the area encompassed by the perimeter surrounding the area within which cannabis plants are cultivated. Where plants are cultivated in separated pots, beds or plots, the cumulative total surface area of all such pots, beds or plots, and the surface area underneath the maximum anticipated extent of vegetative growth of cannabis plants to be grown in separate pots, beds or plots, used in combination for a single permitted cultivation operation.

"Cultivation site" means the location or a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, except where drying, curing, grading or trimming is otherwise prohibited.

"Dispensary" means a facility where medical cannabis, medical cannabis products, or devices (excluding pipes and water pipes) for the use of medical cannabis products are offered, either individually or in any combination, for retail sale.

"Distribution Facility" means the location or a facility where a person licensed with a Type 11 license pursuant to the MCRSA conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes prior to transport to licensed dispensaries.

"Greenhouse" means a structure, primarily of glass or clear poly-film or polycarbonate plastic, in which temperature and humidity can be controlled for the cultivation or protection of plants.

"Indoor" means indoor cultivation using exclusively artificial lighting.

"Licensee" means a person issued a state license under the MCRSA to engage in commercial cannabis activity.

“Manufacturing Facility” means a process whereby the raw agricultural product is transformed into a concentrate, an edible product, or a topical product, and the production, preparation, propagation, or compounding of medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

“Mixed-Light” means cultivation occurring in a greenhouse using a combination of natural and supplemental artificial lighting at a maximum threshold as set forth in performance standards in Section 17.30.190(8) of this ordinance, or as to be determined by the Department of Food and Agriculture, whichever is less.

“Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products for retail or wholesale sale, used specifically for the planting, propagation, and cultivation of medical cannabis.

“Outdoor” means outdoor open-field (not in a greenhouse) cultivation using no artificial lighting. Outdoor cultivation as defined herein is not allowed in the City of Rio Dell.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

“Premises” means a legal parcel compliant with the Subdivision Map Act, or a leasehold interest in agricultural land for agricultural purposes of outdoor or mixed-light cultivation or processing of medical cannabis, or space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture, or distribution of medical cannabis.

“Processing Facility” means the location or facility where medical cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, at a location separate from the cultivation site where the medical cannabis is grown and harvested.

“State license,” means a state license issued pursuant to the MCRSA.

“Testing Laboratory” means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry on the state; and
- (2) Registered with the Department of Public Health.

“Tribal Cultural Resources” means sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, including unique archaeological resources and historical resources as described under sections 21074, 21083.2(g), and 21084.1 of the Public Resources Code, respectively. Tribal Cultural Resource shall also include sites or resources identified by the tribe through an action of the Tribal Council or equivalent body.

(7) General Provisions

This section applies to all facilities and activities involved in the Commercial Cultivation, Processing, Manufacturing, Testing or Distribution of cannabis for medical use, as defined in this Section.

- (a) All commercial cultivation, processing, manufacturing, testing, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws and conditions as deemed appropriate by the Planning Commission and/or the City Council.
- (b) ~~Outdoor~~ Greenhouse and Mixed-Light commercial cultivation of cannabis for medical use shall be conducted entirely within a fully enclosed, secure and lockable greenhouse and shall be conditionally permitted in the ~~Rural (R)~~ Industrial Commercial (IC) and Natural Resources (NR) designations located in the Sawmill Annexation area, pursuant to the ~~“Outdoor”~~ “Greenhouse” and “Mixed-Light” parcel size and cultivation area provisions described in Table 8.1 and subject to the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (c) Indoor commercial cultivation of cannabis for medical use shall be conditionally permitted in the Industrial Commercial (IC), ~~Rural (R)~~ and Natural Resources (NR) designations located in the Sawmill Annexation area pursuant to the “Indoor” parcel size and cultivation area provisions described in Table 8.1 and subject to the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (d) Processing Facilities accessory and appurtenant to on site cultivation for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC), ~~Rural (R)~~ and Natural Resources (NR) designations located in the Sawmill Annexation area zoning districts, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (e) Stand alone, independent Processing Facilities for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation zoning district

located in the Sawmill Annexation area, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.

- (f) Extraction manufacturing of commercial cannabis concentrates for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation located in the Sawmill Annexation area, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (g) Manufacturing of edibles (commercial kitchens) for medical use shall be a conditionally permitted use in the Industrial Commercial (IC), ~~Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC)~~ designation located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (h) Wholesale Distribution Facilities for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (i) Nurseries, as defined herein, producing commercial cannabis nursery products for retail sale, bulk wholesale sale or to supply retail nursery outlets shall be a conditionally permitted use in the Industrial Commercial (IC), ~~Rural (R)~~ and Natural Resources (NR) designations, located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (i) Testing laboratories as herein defined shall be conditionally permitted in the Industrial Commercial (IC), ~~Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC)~~ designation located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (j) ~~Dispensaries as herein defined shall be conditionally permitted in the Town Center (TC) designation~~ located in the Sawmill Annexation area ~~subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by~~ the Planning Commission and/or the City Council.

- (k) (j) Other than as enumerated in this Section, the commercial cultivation, processing, manufacturing, testing or distribution of cannabis for medical use in any other zoning district in the City of Rio Dell is prohibited.
- (l) (k) The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a Conditional Use Permit from the City of Rio Dell to engage in the commercial cultivation, processing, manufacturing, testing or distribution of cannabis for medical use within the jurisdiction of the City.
- (m) (l) No more than four commercial cannabis activity permits of any type enumerated in Sections 17.30.195(8)(b) through 17.30.195(8)(g) of this ordinance may be issued to a single person, as defined herein. For purposes of this limitation, any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person with those entities.

(8) Cultivation Locations, Parcel Sizes and Allowable Canopies

The ~~location of~~ commercial cultivation of cannabis for medical use within the City shall be located in the Sawmill Annexation area determined by the zoning designation and the size of the parcel on which the activity is to be conducted in accordance with the following table:

Table 8.1
Cultivation Locations, Parcel Sizes and Allowable Canopies

Outdoor Greenhouse & Mixed-Light Cultivation
Rural (R) Industrial Commercial (IC) and Natural Resources (NR) Designations

State License Type	Parcel Size	Allowable Canopy
Type 1 & 1B, "Specialty Outdoor <u>Greenhouse</u> & Specialty Mixed Light"	< 1 acre	1,000 sq. ft.
	1-2.49 acres	2,000 sq. ft.
	2.5-4.99 acres	5,000 sq. ft.
Type 2 & 2B, "Small Outdoor <u>Greenhouse</u> & Small Mixed Light"	5.0- 19.99 acres	10,000 sq. ft.
Type 3 & 3B, " Outdoor <u>Greenhouse</u> & Mixed Light"	≥ 20 acres	22,000 sq. ft.

Indoor Cultivation
Industrial Commercial (IC) Designations

State License Type	Parcel Size	Allowable Canopy
Type 1A, "Specialty Indoor"	< 1 acre	5,000 sq. ft.
Type 2A, "Small Indoor"	1.0- 1.99 acres	10,000 sq. ft.
Type 3A, "Indoor"	≥ 2 acres	22,000 sq. ft.

Indoor Cultivation
~~Rural (R)~~ and Natural Resources (NR) Designations

State License Type	Parcel Size	Allowable Canopy
Type 1A, "Specialty Indoor"	< 1 acre	1,000 sq. ft.
	1-1.99 acres	2,000 sq. ft.
	2.0-4.99 acres	5,000 sq. ft.
Type 2A, "Small Indoor"	5.0- 9.99 acres	10,000 sq. ft.
Type 3A, "Indoor"	≥ 10 acres	22,000 sq. ft.

Nurseries
Industrial Commercial (IC), ~~Rural (R)~~ and Natural Resources (NR) designations

State License Type	Parcel Size	Allowable Canopy
Type 4, "Nursery"	N/A	43,560 sq. ft. State Limit

- (a) Processing of cannabis that is cultivated pursuant to these regulations may occur at the cultivation site subject to the Processing Performance Standards and Employee Safety Practices enumerated in Section 17.30.195(10) thru 17.30.195(13) are met.
- (b) Multiple applicants may obtain a Conditional Use Permit for ~~outdoor~~ greenhouse cultivation, mixed-light cultivation, or both, on one legal parcel so long as the cumulative cultivation area is within one contiguous cultivation footprint that does not exceed the total cultivation area size limits set forth in Table 8.1, Cultivation Locations, Parcel Sizes and Allowable Canopies.
- (c) A combination of cultivation types may be allowed in the same zone (e.g. ~~outdoor~~ greenhouse and, mixed light cultivation, or indoor cultivation and processing) that are for a total area equal to or less than the cultivated area size limit for the size of the underlying parcel.

(9) Application Requirements for All MCCLUO Conditional Use Permits:

- (a) A completed standard application form for a Conditional Use Permit with the required deposit.
- (b) If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement.
- (c) A **Site Plan** shall be submitted showing the entire parcel, including easements, streams and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within ¼ mile (1,320 ft.) of a school, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least ~~600~~ 1000 feet.
- (d) A **Plan of Operations** shall be submitted that includes, describes and addresses the following:
 - (i) A complete project description including the proposed use(s), hours and days of operation, number of employees, and the duration (temporary, seasonal or permanent) of the operation.
 - (ii) The number of daily and/or weekly incoming and outgoing deliveries
 - (iii) A Security Plan that addresses the cultivation, storage, processing, manufacturing and testing of any medical cannabis, including but not limited to video monitoring and commercial alarm systems.
 - (iv) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
 - (v) A description of the storage or use of any solvents, fertilizers, pesticides, fungicides, rodenticide, or herbicides.
 - (vi) A description of any discharge or emissions the operation will generate.
 - (vii) A description of any noise level increase as a result of the operation.
 - (viii) A description of the operation's use of public facilities such as roads, water or sewer

systems.

(ix) A description of any proposed water source, storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection.

(e) A Security Plan shall be submitted that includes, describes and addresses the following:

(i) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission.

(ii) The facility shall be alarmed with an audible interior and/or exterior silent alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee.

~~(e)~~ **(f) Tribal Consultation:** For any ground disturbing activities, acknowledge that the City will consult with the local Wiyot Tribe, including their Tribal Historic Preservation Officer (THPO) or other tribal representatives, before the approval of any Conditional Use Permit. During this process, the tribe may request that operations associated with the Conditional Use Permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern.

~~(f)~~ **(g) Community Relations:** Each medical cannabis facility shall provide the City Manager or designee with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the City can provide notice if there are operating problems associated with the medical cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the medical cannabis facility. Each medical cannabis facility shall also provide the above information to its business neighbors located within ~~100~~ 300 feet of the medical cannabis facility.

~~(g)~~ (h) Consent to a minimum of at least one quarterly on-site compliance inspection, to be conducted by appropriate City officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The applicant shall be required to pay the Inspection Fee in effect at that time.

~~(h)~~ (i) Owner(s) or employee(s) who makes or will make operational or management decisions that directly impact the business shall consent to a background check pursuant to Section 19322(a)(1)(A) of the Business and Professions Code, including submitting to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests, and information as to the existence and content of a record of State and Federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal. The applicant shall be responsible for the costs associated with the required background check.

(i) No Owner or employee who makes or will make operational or management decisions that directly impact the business shall have been convicted of an offense, or is currently free on bail or on his or her own recognizance pending trial or appeal for an offense, that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, including but not be limited to, the following:

- (A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance;
- (B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
- (C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
- (D) A felony conviction involving fraud, deceit, or embezzlement.

~~(h)~~ (j) Compliance with the provisions of the Medical Cannabis Regulation and Safety Act.

(k) Inventory Tracking System. All permittees shall purchase, implement and maintain updates to the inventory tracking software from the City's inventory tracking software system (ITSS) provider. A permittee must have at least one individual Owner or contractor who successfully completes all training necessary to properly use the ITSS as a System Administrator. The System Administrator may also designate specific inventory tracking system user(s) that have successfully completed all ITSS training required to access the system under the direct control of the System Administrator. The System

Administrator and any designated users shall participate in all ongoing and continuing training as required to stay current with the software.

(i) Inventory Tracking. Permittees shall, at all times, maintain current inventory information on the City's ITSS.

(10) Performance Standards for all MCCLUO Cultivation Operations:

- (a) No surface water withdrawals shall be allowed as part of any cultivation operations.
- (b) No Timberland Conversion Permits or Exemptions as approved by the California Department of Forestry and Fire Protection (CAL-FIRE) shall be used to facilitate the cultivation of medical cannabis.
- (c) The area of cannabis cultivation shall be located as shown on the application site plan, set back at least 50 feet from any property line, and ~~600~~ 1000 feet from any School. Cannabis cultivation is declared to be development, subject to compliance with Section 17.30.110, Environmentally Sensitive Habitat Area's (ESHA's). For purposes of this section, where enhanced, reduced, or modified watercourse or wetland setbacks have been agreed to by the operator and the RWQCB under enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan, these may control and supersede any setback applied pursuant to Section 17.30.110.
- (d) Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the City of Rio Dell or other responsible agency.
- (e) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023, is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers.
- (f) The storage or use of any fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be in compliance with the manufacture's recommendations and regulations administered by the State Department of Pesticide Regulation. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division, which administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA).

- (g) Trucked water shall not be allowed as the primary water source. Water is to be sourced locally (on-site), except for emergencies. For purposes of this provision, "emergency" is defined as: "a sudden, unexpected occurrence demanding immediate action."
- (h) Carbon filter fans or equivalent superior filters/scrubbers shall be required to ~~minimize or~~ eliminate odor discharges to neighboring properties from cultivation and processing facilities.
- (i) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
- (j) Those cultivators using artificial lighting for mixed-light cultivation shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. Should the City receive complaints that the lighting is out of alignment or not complying with these standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected and corrected as necessary.
- (k) Generators are only allowed as an emergency back-up power source. The noise produced by a generator used for cannabis cultivation shall not be audible from neighboring residences. The decibel level for generators at the property line shall be no more than 60 decibels.
- (l) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, and in such a way that no spillage occurs.
- ~~(m) The facility shall be alarmed with an audible interior and/or exterior silent alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee.~~
Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).
- ~~(n)~~ **(m)** Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(11) Employee Performance Standards for Cultivation and Processing Activities:

- (a) Pursuant to the MMRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall “provide a statement declaring the applicant is an ‘agricultural employer,’ as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.”
- (b) Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA and the California Agricultural Labor Relations Act.
- (c) Cultivators engaged in processing shall comply with the following Processing Practices:
- i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment; and
 - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis; and
 - iii. Employees handling cannabis in processing operations must have access to facemasks, coveralls and gloves in good operable condition as applicable to their job function; and
 - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
- (d) All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
- i. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - Emergency action response planning as necessary; and
 - Employee accident reporting and investigation policies; and
 - Fire prevention;
 - Hazard communication policies, including maintenance of material safety data sheets (MSDS); and
 - Materials handling policies; and

- Job hazard analyses; and
 - Personal protective equipment policies, including respiratory protection.
- ii. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - Operation manager contacts; and
 - Emergency responder contacts; and
 - Poison control contacts.
 - iii. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
 - iv. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
- (e) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:
- i. Summary of Processing Practices.
 - ii. Description of location where processing will occur.
 - iii. Estimated number of employees, if any.
 - iv. Summary of Employee Safety Practices.
 - v. Description of toilet and handwashing facilities.
 - vi. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.
 - vii. Description of source of drinking water for employees.
 - viii. Description of increased road use resulting from processing and a plan to minimize that impact.

ix. Description of on-site housing, if any.

(12) Performance Standards for Manufacturing Activities:

- (a) Compliance with CAL/OSHA, OSHA regulations.
- (b) Compliance with State and local building regulations, including the California Building Code (CBC) and the California Fire Code (CFC).
- (c) A Security Plan that addresses how the following measures shall be implemented or complied with:

~~(i) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission.~~ **Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).**

~~(ii) The facility shall be alarmed with an audible interior and/or exterior silent alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee.~~ **Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).**

~~(iii)~~ **(i)** Entrance to the extraction areas and any cannabis storage areas shall be locked at all times, and under the control of facility staff.

~~(iv)~~ **(ii)** Medical cannabis shall be stored in buildings that are completely enclosed, and in a locked vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.

~~(v)~~ **(iii)** Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.

- (d) If using CO₂ in processing, a professional grade closed-loop CO₂ gas extraction system rated to a minimum of fifteen thousand (15,000) pounds per square (PSI) is required for every vessel in the system.
- (e) Extraction processes shall use a commercially manufactured professional grade closed-loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted sound engineering practices, such as (i) The American Society of Mechanical Engineers (ASME); (ii) American National Standards Institute (ANSI); (iii) Underwriters Laboratories (UL); or (iv) The American Society for Testing and Materials (ASTM).
- (f) Volatile extraction operations shall occur in a spark-proof, explosion-proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.
- (g) Carbon filter fans or equivalent superior filters/scrubbers shall be required to ~~minimize or~~ eliminate odor discharges to neighboring properties.
- (h) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
- (i) Manufacturers of edibles shall comply with the regulations in the California Health and Safety Code, which includes the California Retail Food Code administered by the California Department of Health Services - Food and Drug Branch, California Department of Food and Agriculture and the County Department of Environmental Health.
- (j) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(13) Performance Standards for Testing Laboratories

- (a) ~~The facility shall be alarmed with an audible interior and/or exterior silent alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee.~~ **Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).**
- ~~(b)~~ (a) Entrance to the lab area and any cannabis storage areas shall be locked at all times, and under the control of facility staff.

- ~~(c)~~ (b) Medical cannabis shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.
- ~~(d)~~ (c) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the California Building Code.
- ~~(e)~~ (d) All laboratory testing facilities shall comply with Sections 19341 through 19345 of the California Business and Professions Code.
- ~~(f)~~ (e) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

~~(14) Performance Standards for Dispensaries~~

- ~~(a) The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee. ***Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).***~~
- ~~(b) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission. ***Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).***~~
- ~~(c) Entrance to the any cannabis storage areas shall be locked at all times, and under the control of facility staff.~~
- ~~(d) Medical cannabis shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.~~
- ~~(e) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar~~

~~mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.~~

~~(f) No dispensing location for the collective shall be open between the hours of 8:00 p.m. and 9:00 a.m. on any given day.~~

~~(g) Only qualified patients, as defined in Section 11362.7 of the Health and Safety Code are allowed in dispensaries.~~

~~(h) Medical cannabis may not be inhaled, smoked, eaten, ingested, vaped, or otherwise used or consumed at the premises and/or location.~~

~~(i) The sales of pipes, including water pipes and other paraphernalia are prohibited.~~

~~(j) In addition to the labeling requirements of Section 19347 of the Business and Professions Code, all medical cannabis shall be packaged in an opaque childproof container which shall be accompanied by a leaflet or insert that clearly states the following:~~

~~(i) The complete legal name of the qualified patient who will be using the medical cannabis;~~

~~(ii) The name, address and on-site landline telephone number of the dispensary;~~

~~(iii) The amount of medical cannabis in the container;~~

~~(iv) The name of the attending physician recommending the use of medical cannabis for the qualified patient;~~

~~(v) The date the medical cannabis was provided;~~

~~(vi) A list of the chemicals and or substances that were used during the processing of the medical cannabis;~~

~~(vii) All necessary health and safety warnings, including, but not limited to direction that the medical cannabis be stored in a clean and dry place and out of the reach of children; and~~

~~(viii) A statement that the City of Rio Dell neither warrants nor guarantees the quality or safety of the medical cannabis contained therein.~~

~~(k) All edible medical cannabis products sold within the City of Rio Dell shall be placed in opaque packaging, without photos or images of food on the label. Packaging that makes the edible product attractive to children or imitates candy is not allowed. Edible medical cannabis products shall not imitate commercially produced goods marketed to children. The~~

~~edible product must be accompanied by a leaflet or insert that clearly states the source/provider of the food production in addition to all of the information required by Subsection 17.30.095(14)(i).~~

~~(l) A sign shall be posted in a conspicuous location inside the premises advising the following: "Both the sale of cannabis and the diversion of cannabis for nonmedical purposes are violations of state law. The use of cannabis may impair a person's ability to operate a motor vehicle or heavy machinery. Loitering at the location of a medical cannabis collective for an illegal purpose is prohibited by California Penal Code Section 647(h). This collective is registered in accordance with the laws of the State of California and the City of Rio Dell."~~

~~(m) Dispensaries shall be located at least 1000 feet from any school.~~

~~(15)~~ **(14) Term of Conditional Use Permit; Inspections.**

- (a) Any Conditional Use Permit issued pursuant to this section shall expire after one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless the required compliance inspections have been conducted and the permitted site has been found to comply with all conditions of approval.
- (b) If the inspector or other City official determines that the site does not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of noncompliance shall terminate the Conditional Use Permit and License, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.
- (c) The City shall notify any state license authority, as defined by the MMRSA, whenever the Conditional Use Permit and License has been revoked or terminated.

~~(16)~~ **(15) Appeal of Annual Inspection Determination**

Within ten (10) business days after delivery of the statement of non-compliance, the determination by the inspector that the site is or is not in compliance may be appealed by any interested party to the Planning Commission. The appeal shall be made, in writing, on a form provided by the City. The fee for filing the appeal is based on the adopted fee schedule in effect at the time of the appeal.

- (a) The appeal shall be heard by the Planning Commission within thirty (30) days following the filing of the appeal. The Planning Commission shall render a written ruling on the appeal within three (3) business days following the hearing.
- (b) The decision of the Planning Commission may be appealed to the City Council in accordance with Section 17.35.050 of the Rio Dell Municipal Code. If a timely appeal to the City Council is not filed, the ruling by the Planning Commission shall be final.

Section 2. Severability

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 3. Limitation of Actions

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 4. Effective Date

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

I HEREBY CERTIFY that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on May 10, 2016 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the _____, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Frank Wilson, Mayor

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Ordinance No. 342-2016 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the _____, 2016.


Karen Dunham, City Clerk, City of Rio Dell


675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: September 6, 2016

To: City Council

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager 

Date: August 29, 2016

Subject: Text Amendment Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC)

Recommendation:

That the City Council:

1. Receive staff's report regarding amending Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC); and
2. Open the public hearing, receive public input and deliberate; and
3. Introduce (first reading) Ordinance No. 347-2016 amending Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to establish maximum building heights and floor areas based on the size of the parcel and to allow for exceptions by the Planning Commission when certain findings can be made) and continue consideration, approval and adoption of the proposed Ordinance to your meeting of September 20, 2016 for the second reading and adoption.

Background

Accessory Buildings Heights and Sizes: Staff has been contacted a number of times over the past few years regarding the construction of detached accessory structures and in particular the height limitation of fifteen (15) feet in the City's residential zones. Detached accessory buildings are allowed in residential zones, provided they are accessory to and subordinate to the principal use of the site and serves a purpose which does not change the character of the principal residential use.

Many jurisdictions allow greater heights on larger parcels and exception provisions without the need for a variance. Staff brought this issue to the Planning Commission for consideration and discussion at their meeting of August 23, 2016. Staff had originally recommended that the maximum building height on lots larger than 20,000 square feet be established at twenty-six (26) feet. However, the Planning Commission recommends limiting the building height to twenty (20) feet.

Staff did recommend an exception to allow greater heights with a Use Permit. As the Council is aware the Use Permit process requires notifying all property owners within 300 feet of the subject property. This allows neighbors to voice their concerns regarding the proposed exception. The "Exception" recommendations are for the most part the same exception provisions to exceed the allowable fence height regulations, Section 17.30.120 of the RDMC.

The Planning Commission is recommending the following amendments regarding building heights and size limitations to Section 17.30.020, Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC):

(2) Detached ~~a~~Accessory buildings in suburban residential, urban residential, residential multifamily and suburban zones shall conform to the following development standards ~~not exceed 15 feet in height~~. See "Building Height" definition, Section 17.10.010.

(a) Maximum Building Height

(i) Fifteen feet (15') on lots 20,000 square feet or less.

(ii) Twenty feet (20') on lots larger than 20,000 square feet.

(b) Maximum Gross Floor Area

(i) 1,000 square feet on lots 20,000 square feet or less.

(ii) 1,500 square feet on lots larger than 20,000 square feet.

(3) Exceptions. The Planning Commission may modify by use permit, the height and floor area requirements of this part, upon a showing of good cause. For any such modification, the Planning Commission shall be required to make the following findings:

(a) The proposed modification will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area;

(b) The proposed modification will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and

(c) The proposed modification will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

(d) In issuing a use permit, the Planning Commission may require such changes or alterations to the building as it may deem necessary to satisfy the findings specified in this part. Such changes or alterations may include, but shall not be limited to the following:

- Building height
- Building area
- Setback from property lines
- Screening or landscaping

Procedural Requirements

Pursuant to Section 17.35.010 of the City of Rio Dell Municipal Code, the following City procedures are required to amend the Ordinance:

- An amendment may be initiated by one or more owners of property affected by the proposed amendment, as set out in Section 17.35.010(3), or by action of the Planning Commission, or the City Council.
- The application of one or more property owners for the initiation of an amendment shall be filed in the office of the City Clerk on a form provided, accompanied by a filing fee.
- Subject only to the rules regarding the placing of matters on the Planning Commission agenda, the matter shall be set for a public hearing.
- Notice of hearing time and place shall be published once in a newspaper of general circulation at least ten calendar days before the hearing or by posting in at least three public places.
- At the public hearing, the Planning Commission shall hear any person affected by the proposed amendment. The hearing may be continued from time to time.
- Within 40 days of the conclusion of the hearing, the Planning Commission shall submit to the City Council a written report of recommendations and reasons therefore.
- Subject only to the rules regarding the placing of matters on its agenda, the City Council, at its next regular meeting following the receipt of such report, shall cause the matter to be set for a public hearing. Notice of the time and place of the hearing shall be given as provided in Section 17.35.010(5), hereof.
- At the public hearing, the City Council shall hear any person affected by the proposed amendment. The hearing may be continued to a specified future date, but shall be concluded within 60 days of the commencement thereof.
- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

Zone Reclassification Required Findings

1. The proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected.

There are a number of policies in the General Plan which protect the character of neighborhoods and communities, reduce the potential for health and safety hazards, maintain and protect the

visual qualities and property values of an area. The proposed amendments are consistent and compatible with the General Plan.

2. The proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA).

Based on the nature of the project, staff has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a **significant** effect on the environment. Where it can be seen with certainty that there is no possibility that the project in question may have a significant effect on the environment, the project is not subject to CEQA. Based on the nature of the proposed amendments, to protect the character of neighborhoods and communities, reduce the potential for health and safety hazards, maintain and protect the visual qualities and property values of an area, staff believes there is no evidence to suggest that the minor amendments will have a **significant** effect on the environment.

Attachments

Attachment 1: Ordinance No. 347-2016 amending Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to establish maximum building heights and floor areas based on the size of the parcel and to allow for exceptions by the Planning Commission when certain findings can be made.

ORDINANCE NO. 347-2016



**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL
AMENDING SECTION 17.30.020 ACCESSORY USES AND BUILDINGS OF THE RIO
DELL MUNICIPAL CODE (RDMC) TO ESTABLISH MAXIMUM BUILDING HEIGHTS
AND FLOOR AREAS BASED ON THE SIZE OF THE PARCEL AND TO ALLOW FOR
EXCEPTIONS BY THE PLANNING COMMISSION WHEN CERTAIN FINDINGS CAN BE
MADE.**

THE CITY COUNCIL OF THE CITY OF RIO DELL ORDAINS AS FOLLOWS:

WHEREAS staff has been contacted a number of times over the past few years regarding the construction of detached accessory structures and in particular the height limitation of fifteen (15) feet in the City's residential zones; and

WHEREAS detached accessory buildings are allowed in residential zones, provided they are accessory to and subordinate to the principal use of the site and serves a purpose which does not change the character of the principal residential use; and

WHEREAS many jurisdictions allow greater heights on larger parcels and exception provisions without the need for a variance; and

WHEREAS the Planning Commission is recommending the amendments regarding building heights and size limitations to Section 17.30.020, Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC); and

WHEREAS the Planning Commission recommends that the allowable height of detached accessory structures on lots less than 20,000 square feet in size be limited to fifteen (15) feet; and

WHEREAS the Planning Commission recommends that the allowable height of detached accessory structures on lots greater than 20,000 square feet in size be limited to twenty (20) feet; and

WHEREAS the Planning Commission recommends that the allowable area of detached accessory structures on lots less than 20,000 square feet in size be limited to 1,000 square feet; and

WHEREAS the Planning Commission recommends that the allowable area of detached accessory structures on lots greater than 20,000 square feet in size be limited to 1,500 square feet; and

WHEREAS the Planning Commission also recommends exception provisions to allow for greater heights and larger sizes based on specific findings; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Rio Dell does hereby ordain as follows:

Section 1. Section 17.30.020(2) of the Rio Dell Municipal Code is amended to read in as follows:

17.30.020 Accessory Uses and Buildings

(1) A use legally permitted in the zone that is accessory to and subordinate to the principal use of the site and serves a purpose which does not change the character of the principal use. Accessory uses, as defined herein, shall be permitted as appurtenant to any permitted use, without the necessity of securing a use permit, unless particularly provided in this chapter; provided, that no accessory use shall be conducted on any property in any urban residential, suburban residential or suburban zone unless and until the main building is erected and occupied, or until a use permit is secured. [Ord. 252 § 6.02, 2004.]

(2) Detached ~~a~~Accessory buildings in suburban residential, urban residential, residential multifamily and suburban zones shall conform to the following development standards ~~not exceed 15 feet in height~~. See "Building Height" definition, Section 17.10.010.

(a) Maximum Building Height

(i) Fifteen feet (15') on lots 20,000 square feet or less.

(ii) Twenty feet (20') on lots larger than 20,000 square feet.

(b) Maximum Gross Floor Area

(i) 1,000 square feet on lots 20,000 square feet or less.

(ii) 1,500 square feet on lots larger than 20,000 square feet.

(3) Exceptions. The Planning Commission may modify by use permit, the height and floor area requirements of this part, upon a showing of good cause. For any such modification, the Planning Commission shall be required to make the following findings:

(a) The proposed modification will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area;

(b) The proposed modification will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and

(c) The proposed modification will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

(d) In issuing a use permit, the Planning Commission may require such changes or alterations to the building as it may deem necessary to satisfy the findings specified in this part. Such changes or alterations may include, but shall not be limited to the following:

- Building height
- Building area
- Setback from property line
- Screening or landscaping

(3) Detached accessory buildings may not be located within five feet of any main building, nor within five feet of a side line, nor as to encroach on any easement. Minimum yards: side, five feet, shall have the street side yard of 20 feet; rear, 10 feet.

(4) Detached accessory buildings used as second dwelling units shall not be located within 10 feet of lot lines or within five feet of an alley. The second dwelling unit shall be subject to the minimum yard requirements of the zoning district in which it is located.

(5) Accessory buildings attached to main buildings shall be structurally a part thereof and shall comply with main building yard requirements except as follows:

(a) A passive solar addition to a main building, as defined herein, may be permitted in the required front, rear, or side yard, except street side yard; provided, that no such addition shall reduce the distance between the main building and the front or rear property line to less than 15 feet, nor less than five feet from a side property line, and that no such addition shall occupy more than five percent of the area of the front or rear yard, nor more than 10 percent of the side yard area. [Amended during 2010 codification; Ord. 252 § 6.21.5, 2004.]

Section 2. Severability

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 3. Limitation of Actions

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 4. Effective Date

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

I HEREBY CERTIFY that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on September 6, 2016 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the September 20, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Frank Wilson, Mayor

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Ordinance No. 347-2016 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the September 20, 2016.


Karen Dunham, City Clerk, City of Rio Dell


675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: September 6, 2016

To: City Council

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager 

Date: August 29, 2016

Subject: Chapter 17.40 of the Rio Dell Municipal Code (RDMC)

Recommendation:

That the City Council:

1. Receive staff's report regarding amending Section 17.40.030 of the Enforcement Regulations, Chapter 17.40 of the Rio Dell Municipal Code (RDMC); and
2. Open the public hearing, receive public input and deliberate; and
3. Introduce (first reading) Ordinance No. 349-2016 amending Chapter 17.40 of the Rio Dell Municipal Code (RDMC) to accurately reflect the referenced sections and continue consideration, approval and adoption of the proposed Ordinance to your meeting of September 20, 2016 for the second reading and adoption.

Background

In late 2014 the City reformatted Chapter 17.25 and added a number of new regulations to Chapter 17.30, to the Rio Dell Municipal Code (RDMC). In recently reviewing the Enforcement regulations, Chapter 17.40 of the RDMC, staff discovered that Section 17.40.030 referred to two Sections that were recodified to new section numbers. The two referenced sections, 17.25.030 and 17.25.120 refer to "Adult Entertainment" and "Camping". Those sections were recodified to Sections 17.30.030 and 17.30.170 respectively. Below is a copy of the existing and proposed language.

17.40.030 Penalty.

Notwithstanding any other provisions of this title, including RDMC 17.40.020, any person, whether principal, agent, employee or otherwise who violates RDMC ~~17.25.030~~ **17.30.030** or ~~17.25.120~~ **17.30.170** shall be guilty of a misdemeanor and may be punished as follows:

- (1) By imprisonment in the County Jail not to exceed six months; or
- (2) A fine not to exceed \$1,000 for violations of RDMC ~~17.25.030~~ **17.30.030** and a fine not to exceed \$500.00 for violations of RDMC ~~17.25.120~~ **17.30.170**; or
- (3) A combination of such imprisonment and fine. [Ord. 252 § 8.02.5, 2004.]

Procedural Requirements

Pursuant to Section 17.35.010 of the City of Rio Dell Municipal Code, the following City procedures are required to amend the Ordinance:

- An amendment may be initiated by one or more owners of property affected by the proposed amendment, as set out in Section 17.35.010(3), or by action of the Planning Commission, or the City Council.
- The application of one or more property owners for the initiation of an amendment shall be filed in the office of the City Clerk on a form provided, accompanied by a filing fee.
- Subject only to the rules regarding the placing of matters on the Planning Commission agenda, the matter shall be set for a public hearing.
- Notice of hearing time and place shall be published once in a newspaper of general circulation at least ten calendar days before the hearing or by posting in at least three public places.
- At the public hearing, the Planning Commission shall hear any person affected by the proposed amendment. The hearing may be continued from time to time.
- Within 40 days of the conclusion of the hearing, the Planning Commission shall submit to the City Council a written report of recommendations and reasons therefore.
- Subject only to the rules regarding the placing of matters on its agenda, the City Council, at its next regular meeting following the receipt of such report, shall cause the matter to be set for a public hearing. Notice of the time and place of the hearing shall be given as provided in Section 17.35.010(5), hereof.
- At the public hearing, the City Council shall hear any person affected by the proposed amendment. The hearing may be continued to a specified future date, but shall be concluded within 60 days of the commencement thereof.

- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

Zone Reclassification Required Findings

1. The proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected.

There are no policies in the General Plan which would prohibit amending the zoning regulations to accurately refer to the originally intended provisions.

2. The proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA).

Based on the nature of the project, staff has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a **significant** effect on the environment. Where it can be seen with certainty that there is no possibility that the project in question may have a significant effect on the environment, the project is not subject to CEQA. Based on the nature of the proposed amendments, to reestablish the original intended numerical sequence of the regulations, staff believes there is no evidence to suggest that the minor amendment will have a **significant** effect on the environment.

Attachments

Attachment 1: Ordinance No. 349-2016 amending Chapter 17.40 of the Rio Dell Municipal Code (RDMC) to accurately reflect the referenced sections.

ORDINANCE NO. 349-2016



AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL AMENDING CHAPTER 17.40 OF THE RIO DELL MUNICIPAL CODE (RDMC) TO ACCURATELY REFLECT REFERENCED SECTIONS WHICH WERE RECENTLY AMENDED.

THE CITY COUNCIL OF THE CITY OF RIO DELL ORDAINS AS FOLLOWS:

WHEREAS the City has added a number of new regulations to Chapter 17.30, General Provisions and Exception, to the Rio Dell Municipal Code (RDMC) over the past couple of years; and

WHEREAS based on the added provisions, the numerical section numbers have changed; and

WHEREAS in recently reviewing the Enforcement Regulations, Chapter 17.40 of the RDMC, staff discovered that Section 17.40.030 referred to two Sections that were recodified to new section numbers; and

WHEREAS the two referenced sections, 17.25.030 and 17.25.120 refer to "Adult Entertainment" and "Camping". Those sections were recodified to Sections 17.30.030 and 17.30.170 respectively; and

WHEREAS the Planning Commission is now recommending that Section 17.40.030 be amended to accurately reflect the new sections numbers; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Rio Dell does hereby ordain as follows:

Section 1. Section 17.40.030 of the Rio Dell Municipal Code is amended to read in as follows:

17.40.030 Penalty.

Notwithstanding any other provisions of this title, including RDMC 17.40.020, any person, whether principal, agent, employee or otherwise who violates RDMC ~~17.25.030~~ 17.30.030 or ~~17.25.120~~ 17.30.170 shall be guilty of a misdemeanor and may be punished as follows:

- (1) By imprisonment in the County Jail not to exceed six months; or
- (2) A fine not to exceed \$1,000 for violations of RDMC ~~17.25.030~~ 17.30.030 and a fine not to exceed \$500.00 for violations of RDMC ~~17.25.120~~ 17.30.170; or
- (3) A combination of such imprisonment and fine. [Ord. 252 § 8.02.5, 2004.]

Section 2. Severability

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 3. Limitation of Actions

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 4. Effective Date

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

I HEREBY CERTIFY that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on September 6, 2016 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the September 20, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Frank Wilson, Mayor

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Ordinance No. 349-2016 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the September 20, 2016.

Karen Dunham, City Clerk, City of Rio Dell